

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2960 of 1997

For Approval and Signature:

Hon'ble MS.JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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BD PANDYA

Versus

KUTCH DISTRICT PANCHAYAT

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Appearance:

MR IS SUPEHIA for Petitioner

MR HS MUNSHAW for Respondent No. 1, 2

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CORAM : MS.JUSTICE R.M.DOSHIT

Date of decision: 01/09/97

ORAL JUDGEMENT

Rule returnable today. Learned advocate Mr. Munshaw appears and waives service of rule on behalf of the respondents. Petitioner herein is Talati cum Mantri appointed under the respondents herein. In view of the criminal complaints of misappropriation of public money lodged against the petitioner, under order dated 8th June, 1988, the petitioner was suspended from service. The petitioner was tried for the said offence of criminal misappropriation and under judgment and order dated 15th February, 1992 delivered in criminal case No. 100 of

1985, the petitioner was sentenced to suffer one year's imprisonment and a fine of Rs. 2000/-. Feeling aggrieved, the petitioner preferred an appeal before the learned Sessions Judge, Kachchh at Bhuj. The learned Sessions Judge, under his judgment and order dated 19th May, 1993, reversed the finding of guilt recorded by the learned trial Judge and acquitted the petitioner of the charge levelled against him. Feeling aggrieved, the respondents have preferred revision application before this Court which is pending for hearing and final disposal.

2. The petitioner has preferred this petition for redressal of his grievance regarding his continuance under suspension. Mr. Supehia, learned advocate appearing for the petitioner has submitted that in view of his acquittal of the criminal charge by the Court of competent jurisdiction, the petitioner is entitled to reinstatement on duty irrespective of the pendency of the revision application before this Court. The claim made by the petitioner is contested by learned advocate Mr. Munshaw appearing for the respondents. He has submitted that in view of the pendency of the revision application before this Court, the petitioner need not be reinstated on duty. He has further submitted that two other criminal complaints have been made against the petitioner which are under investigation and in view of the said complaints also, the petitioner is required to be continued under suspension.

3. I find no merits in the contentions raised by Mr. Munshaw. Since the petitioner is acquitted of the criminal charge levelled against him, he is entitled to reinstatement in duty. Merely because revision application preferred by the respondent authority is pending before this Court, the petitioner's right to reinstatement on duty cannot be denied. Further, if at all in view of the criminal complaints made against the petitioner which are pending investigation, the petitioner is required to be placed under suspension, same may be considered and the respondents may make fresh order of suspension which can be subjected to judicial review. However, the petitioner cannot be continued under suspension under the guise that some complaints are made against the petitioner which are pending investigation.

4. In above view of the matter, this petition is allowed. Respondents are directed to revoke the impugned order of suspension made against the petitioner and reinstate the petitioner in duty and issue necessary

posting order. This exercise shall be done within a period of two weeks from today. The question of regularisation of the period spent by the petitioner under suspension shall be decided in accordance with law after the revision application preferred by the respondent authorities is disposed off by this Court. Rule is made absolute accordingly. There shall be no order as to costs.

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